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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,592	01/19/2007	Dilton A. Lightbourne	207,766	8703
38137 7590 12/16/2008 ABELMAN, FRAYNE & SCHWAB 666 THIRD AVENUE, 10TH FLOOR NEW YORK, NY 10017				
EXAMINER				
PEREIRO, JORGE ANDRES				
ART UNIT		PAPER NUMBER		
3743				
MAIL DATE		DELIVERY MODE		
12/16/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/588,592

**Applicant(s)**

LIGHTBOURNE, DILTON A.

**Examiner**

JORGE PEREIRO

**Art Unit**

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 August 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-29 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 17-29 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 04 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-85/86)  
Paper No(s)/Mail Date 01/04/2007  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 19-31 have been renumbered 17-29.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 17-27 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3 and 7-16 of U.S. Patent No. 6,915,797. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application claims are generic to a species of invention covered by the conflicting patent claims, both claim a portable kitchen contained within a case comprising a plurality of functional food preparation and storage devices and the only difference between the claims is the omission of a microwave unit in the present application and since without a terminal disclaimer, extant species claims preclude issuance of generic application claims.
4. Claim 28 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 17 of U.S. Patent No. 6,915,797. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application claim simply substitutes a toaster for the microwave in the conflicting claim.
5. Claim 29 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 18 of U.S. Patent No. 6,915,797. Although the conflicting claims

are not identical, they are not patentably distinct from each other because the present application claim simply adds a toaster to the conflicting claim which would have been obvious to one having ordinary skill in the art at the time the invention was made since such a modification would simply enhance the overall functionality of the portable kitchen by adding another commonly known and used food preparation device.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 29 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. Claim 29 recites the limitation "said microwave unit" in section "b)" subsection "3)" of the claim. There is insufficient antecedent basis for this limitation in the claim. In the interest of advancing the prosecution of the present application the Examiner interprets "said microwave unit" as -- a microwave unit --.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,915,529 to Bernier ("Bernier") in view of US Patent 3,289,664 to Hewitt ("Hewitt").

12. In re Claims 17-19, with reference to figures 1A, 1B and 1C below, Bernier discloses a portable kitchen, which comprises: a case (10, 12) having at least one cover (12) movable between closed and open positions, the closed position being for compact containment of a plurality of functional food preparation and storage devices supported within said case and entirely hidden by the at least one cover when in the closed position, and the open position being for exposing at least one of the plurality of functional food preparation and storage devices from the compact containment and exposing the plurality of functional food preparation and storage devices for use (*see* col. 1, lines 30-57 and col. 2, lines 14-20): the plurality of functional food preparation and storage devices supported within said case (*see* figure 1A), including: a cooking unit (36) having cooking burners (40, 42) for heating cookware and foods for preparation thereof.

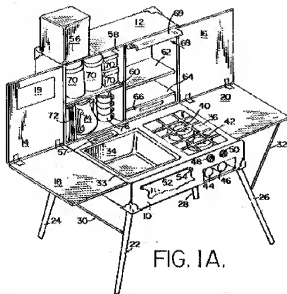


FIG. 1A.

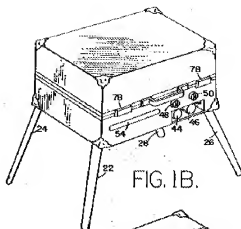
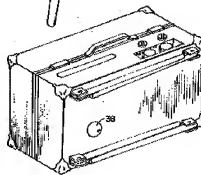


FIG. 1B.

FIG 1C

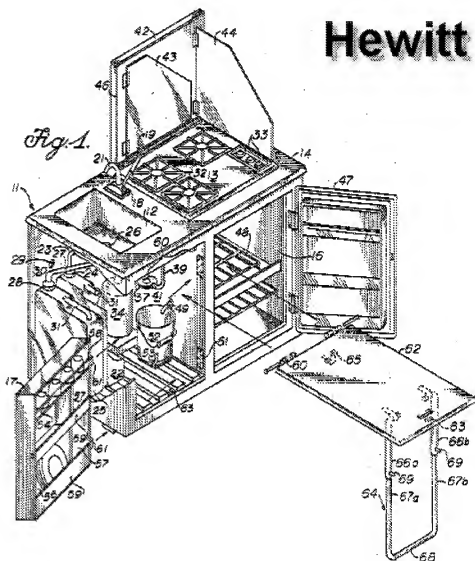


**Bernier**

13. However, Bernier does not disclose a refrigerator unit for containing and storing foods, said refrigeration unit cooling and maintaining the foods at conventional refrigerator storage temperatures; and a power connecting device connectable to an outside source of power to said food preparation and storage devices to provide functioning power to said devices; wherein said refrigerator unit is capable of maintaining food items at between about 34°F and about 46°F, when supplied with power; and wherein said power connecting device is at least one of a direct current (i.e., D.C.) connecting device and an alternating current (i.e., A.C.) connecting device.

14. Nonetheless, with reference to figure 1 below, Hewitt teaches a kitchen unit which includes the major appliances of the kitchen in one self-contained, compact and portable unit with a refrigerator unit (16) for containing and storing foods, said refrigeration unit cooling and maintaining the foods at conventional refrigerator storage temperatures; and a power connecting

device connectable to an outside source of power to said food preparation and storage devices to provide functioning power to said devices; wherein said refrigerator unit is capable of maintaining food items at between about 34°F and about 46°F, when supplied with power; and wherein said power connecting device is at least one of a direct current (i.e., D.C.) connecting device and an alternating current (i.e., A.C.) connecting device (*see* col. 4, lines 25-35).





15. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bernier to incorporate a refrigerator unit for containing and storing foods, said refrigeration unit cooling and maintaining the foods at conventional refrigerator storage temperatures; and a power connecting device connectable to an outside source of power to said food preparation and storage devices to provide functioning power to said devices; wherein said refrigerator unit is capable of maintaining food items at between about 34°F and about 46°F, when supplied with power; and wherein said power connecting device is at least one of a direct current (i.e., D.C.) connecting device and an alternating current (i.e., A.C.) connecting device as taught by Hewitt, since such a modification would enhance the overall functionality of the portable kitchen disclosed in Bernier by providing a means to maintain items at refrigerated temperatures for either preservation purposes or for a cooled consumption temperature. Furthermore, such a modification would reduce the weight and/or cost of said portable kitchen by taking advantage of an alternate power source (*i.e.* a vehicle) thereby eliminating the need of providing an additional power supply such as a battery or an on-board power generator and fuel supply.

16. Regarding wherein said refrigerator unit is capable of maintaining food items at between about 34°F and about 46°F, when supplied with power; it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a refrigerator capable of maintaining food items at between about 34°F and about 46°F, when supplied with power, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

17. Claims 20-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernier in view of Hewitt as applied to claim 19 above, and further in view of US Patent 3,692,975 to Markus et al. ("Markus").

18. In re Claims 20-27, Bernier in view of Hewitt discloses all of the claim limitations including further comprising a storage space and a plurality of support shelves for supporting utensils, equipment, or food (*see* Bernier, figure 1A); wherein said power connecting device is a power inverter having a power cord for connection to a direct current (i.e., D.C.) source (*see* Hewitt, col. 4, lines 25-35); wherein said power cord includes a device for connection to a cigarette/cigar lighter of a motorized unit (*see* Hewitt, col. 4, lines 25-35).

19. However, Bernier in view of Hewitt does not disclose further comprising a toaster device supported by said case for toasting food items; wherein said motorized unit is an automobile, SUV, RV, mini-van, or a boat; wherein said power connecting device is a power connection device having a power cord adapted for connection to a conventional alternating current (i.e., A.C.) power source; wherein said power cord includes a connection device at one end for connection with an alternating current (i.e., A.C.) power source; wherein said A.C. power source is a standard wall duplex outlet.

20. Nonetheless, Markus teaches a food preparing system incorporated into an automobile comprising a toaster device (17) supported by a case (10) for toasting food items; wherein said motorized unit is an automobile (*see* Abstract), SUV, RV, mini-van, or a boat; wherein said power connecting device is a power connection device having a power cord (81) adapted for connection to a conventional alternating current (i.e., A.C.) power source (*see* col. 10, lines 3-35); wherein said power cord includes a connection device (167, *see* figure 18) at one end for

connection with an alternating current (i.e., A.C.) power source; wherein said A.C. power source is a standard wall duplex outlet (*see* col. 10, lines 3-35).

21. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bernier to further comprise a toaster device supported by said case for toasting food items; wherein said motorized unit is an automobile, SUV, RV, mini-van, or a boat; wherein said power connecting device is a power connection device having a power cord adapted for connection to a conventional alternating current (i.e., A.C.) power source; wherein said power cord includes a connection device at one end for connection with an alternating current (i.e., A.C.) power source; wherein said A.C. power source is a standard wall duplex outlet as taught by Markus, since such a modification would enhance the overall functionality of said portable kitchen by providing various means of food preparation and the flexibility to use alternate power supplies.

22. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bernier in view of Hewitt and Markus.

23. In re Claim 28, with reference to figures 1A, 1B and 1C above, Bernier discloses a portable kitchen, which comprises: a case having at least a pair of covers (10, 12) pivotably movable between closed and open positions (*see* figures 1A, 1B and 1C above), the closed positions of said covers being for compact containment of a plurality of functional food preparation and storage devices supported within said case and entirely hidden by said covers when in the closed positions, and the open positions being for exposing the plurality of functional food preparation and storage devices from the compact containment and exposing the plurality of functional food preparation and storage devices for use (*see* col. 1, lines 30-57 and

col. 2, lines 14-20): the plurality of functional food preparation and storage devices supported within said case (*see* figure 1A), including: a cooking unit (36) having cooking burners (40, 42) for heating cookware and foods for preparation thereof.

24. However, Bernier does not disclose a refrigerator unit for containing and storing foods, said refrigeration unit cooling and maintaining the foods at conventional refrigerator storage temperatures; a power connecting device connectable to an outside source of power to said food preparation and storage devices to provide functioning power to said devices; and a toaster device for toasting foods.

25. Nonetheless, with reference to figure 1 above, Hewitt teaches a kitchen unit which includes the major appliances of the kitchen in one self-contained, compact and portable unit with a refrigerator unit (16) for containing and storing foods, said refrigeration unit cooling and maintaining the foods at conventional refrigerator storage temperatures; a power connecting device connectable to an outside source of power to said food preparation and storage devices to provide functioning power to said devices (*see* col. 4, lines 25-35).

26. Furthermore, Markus teaches a food preparing system incorporated into an automobile comprising a toaster device (17) for toasting food items.

27. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bernier to incorporate a refrigerator unit for containing and storing foods, said refrigeration unit cooling and maintaining the foods at conventional refrigerator storage temperatures; a power connecting device connectable to an outside source of power to said food preparation and storage devices to provide functioning power to said devices; and a toaster device for toasting foods as taught by Hewitt and Markus, since such a modification

would enhance the overall functionality of the portable kitchen disclosed in Bernier by providing the additional convenience of toasting food items and also providing a means to maintain items at refrigerated temperatures for either preservation purposes or for cooling food items best consumed cold. Furthermore, such a modification would reduce the weight and/or cost of said portable kitchen by taking advantage of an alternate power source (*i.e.* a vehicle) thereby eliminating the need of providing an additional power supply such as a battery or an on-board power generator and fuel supply.

28. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bernier in view of Hewitt and Markus and US Patent 5,369,255 to Sherer et al. ("Sherer").

29. In re Claim 29, with reference to figures 1A, 1B and 1C above, Bernier discloses a portable suitcase type kitchen, which comprises: a portable case having a carry handle (*see* figures 1B and 1C above) and at least a pair of hinged covers (10, 12) pivotably movable between closed and open positions (*see* figures 1A, and 1B above), the closed positions of said covers being for compact containment of a plurality of functional food preparation and storage devices supported within said case and entirely hidden by said covers when in the closed positions, and the open positions being for exposing the plurality of functional food preparation and storage devices from the compact containment and exposing the plurality of functional food preparation and storage devices for use: the plurality of functional food preparation and storage devices supported within said case (*see* figure 1A), including: a cooking unit (36) having cooking burners (40, 42) for heating cookware and foods for preparation thereof; and insulating walls (58, 60, 62 and 64).

30. However, Bernier does not disclose a refrigerator unit for containing and storing foods, said refrigeration unit cooling and maintaining the foods at conventional refrigerator storage temperatures; a power connecting device connectable to an outside source of power to said food preparation and storage devices to provide functioning power to said devices; a power connecting device connectable to an outside source of power to said food preparation and storage devices to provide functioning power to said devices; a toaster device for toasting foods; and said cooking unit positioned adjacent a microwave unit and separated therefrom by an insulating wall.

31. Nonetheless, with reference to figure 1 above, Hewitt teaches a kitchen unit which includes the major appliances of the kitchen in one self-contained, compact and portable unit with a refrigerator unit (16) for containing and storing foods, said refrigeration unit cooling and maintaining the foods at conventional refrigerator storage temperatures; a power connecting device connectable to an outside source of power to said food preparation and storage devices to provide functioning power to said devices (*see* col. 4, lines 25-35).

32. Furthermore, Markus teaches a portable food preparing system incorporated into an automobile comprising a toaster device (17) for toasting food items.

33. And, Sherer teaches a portable microwave unit (10).

34. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bernier to incorporate a refrigerator unit for containing and storing foods, said refrigeration unit cooling and maintaining the foods at conventional refrigerator storage temperatures; a power connecting device connectable to an outside source of power to said food preparation and storage devices to provide functioning power to said devices; a power connecting device connectable to an outside source of power to said food preparation

and storage devices to provide functioning power to said devices; a toaster device for toasting foods; and said cooking unit positioned adjacent a microwave unit and separated therefrom by an insulating wall as taught by Hewitt, Markus and Sherer, since such a modification would enhance the overall functionality of the portable kitchen disclosed in Bernier by providing the additional food preparation conveniences of a toaster and microwave and also providing a means to maintain items at refrigerated temperatures for either preservation purposes or for cooling food items best consumed cold. Furthermore, such a modification would reduce the weight and/or cost of said portable kitchen by taking advantage of an alternate power source (*i.e.* a vehicle) thereby eliminating the need of providing an additional power supply such as a battery or an on-board power generator and fuel supply.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see form PTO-892 (Notice of References Cited) attached to, or included with, this Office Action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JORGE PEREIRO whose telephone number is (571) 270-3932. The examiner can normally be reached on Mon.-Fri. 9:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Rinchart can be reached on 571-272-4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kenneth B Rinehart/  
Supervisory Patent Examiner, Art Unit 3743

Jorge Pereiro  
Examiner  
Art Unit 3743

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